



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,798	09/19/2001	Daniel Albertus Jozef Dijks	2120/77997	1409

7590 03/26/2002

Gerald T. Shekleton, Esq.
Welsh & Katz, Ltd.
22nd Floor
120 South Riverside Plaza
Chicago, IL 60606

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT	PAPER NUMBER
----------	--------------

1761

DATE MAILED: 03/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/955798

Applicant(s)

DIJS

Examiner

S. WEINSTEIN

Group Art Unit

1761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 25-36 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 25-36 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 1761

DETAILED ACTION

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacCorkell ('474) in view of Blanc et al ('149), Illy ('694) and Grykiewicz et al ('797).

In regard to claim 25, MacCorkell discloses a pouch that is capable of being used in a container of a coffee machine and for preparing coffee by the passage of water therethrough, the pouch (64) being formed from water permeable material(column 3, paragraph 1) and holding coffee grounds and the pouch having a pill shaped central portion surrounded by a flat annular sealing portion (figure 2). Blanc et al can be relied on as further evidence of an infusion pouch having a pill-shaped central portion surrounded by a flat, annular sealing portion whereas Illy and Grykiewicz et al can be relied on as further evidence that the water permeable sheet material can be filter paper (column 4, paragraph 2 and column 3, paragraph 11, respectively).

Claim 25 ends with^a "wherein" clause. There is nothing previously recited in claim 25 which results in the statement of the "wherein" clause. In any case, applicant is claiming a pouch. He is not claiming an apparatus nor a method of using the pouch. The pouch of MacCorkell would be capable of having the central portion lay flat in the or a well if the well was flat. MacCorkell, and indeed the art taken as a whole, teaches the obvious fact that the infusion pouch

Art Unit: 1761

should be dimensioned for the apparatus it is to be used in. MacCorkell has the central portion of his infusion pouch substantially dimensioned to the dimensions of the bottom portion of the receiving element (67). Similarly for Blanc et al (Figure 5), Illy (Figure 1), and Grykiewicz et al (Figure 1).

In regard to claims 26-30, although the container is not part of the claim, it is noted that MacCorkell in view of the art taken as a whole teach the pouch would have the dimensional capability or that it would have been obvious to dimension the pouch for the particular holder it is intended for. Similarly for claims 31 and 32. The bottom line is that the recited pouch is shaped and dimensioned for the apparatus it is to be used with. Of course, the infusable pouch could be dunked into a cup of water or placed in an ordinary percolator and never associated with the machine that is functionally recited. In any case, to repeat again, the art taken as a whole clearly teaches that the infusable pouch should, of course, be dimensioned and shaped to fit the holder it is to be used with if it is to be used with a holder. Note, too, that the holder of MacCorkell can be considered to have a bowl-shaped inner space, an outer horizontally directed annular bottom part directed away from the bowl-shaped inner space, and a vertical side wall (i.e., the gasket seal 63- see figure 2).

The remainder of the references cited on the USPTO-892 form are cited as art of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Weinstein whose telephone number is (703) 308-0650. The examiner can normally be reached on Monday-Friday from 7:00am to 3:30pm.

Application/Control Number: 09955798

Page 4

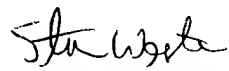
Art Unit: 1761

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (703) 308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

SWeinstein:evh

3/21/02


STEVEN WEINSTEIN
PRIMARY EXAMINER
ART UNIT ~~132~~ 1761
3/25/02